

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

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|---------------------------|---|-------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 3:98-CR-62 |
| |) | |
| WILBERT H. CHERRY, JR., |) | (JORDAN / GUYTON) |
| |) | |
| Defendant. |) | |

ORDER

This matter came before the Court on August 5, 2014, for a status conference. Assistant United States Attorney David C. Jennings represented the Government. Assistant Federal Defender Jonathan A. Moffatt appeared on behalf of the Defendant. The Defendant was not present and is presently detained at the Federal Medical Center in Springfield, Missouri (“FMC Springfield”).

On April 22, 2014, this Court found [Doc. 153] that the Defendant’s competence was not substantially likely to be restored in the foreseeable future and committed the Defendant to the custody of the Attorney General. The Court also directed the mental health staff of FMC Springfield to evaluate the Defendant to assess whether he presently suffers from a mental disease or defect, which would result in a substantial risk of bodily injury to another person or serious damage to the property of another if he were released. The Court and counsel have now received a Risk Assessment Report [Doc. 154] from FMC Springfield, finding that the Defendant suffers from a mental disease and constitutes a substantial risk of injury to another person. The cover letter by Warden Linda Sanders states that a petition for the Defendant’s commitment pursuant to 18 U.S.C.

§ 4246 will be filed in the Western District of Missouri.

At the status conference, counsel agreed that the matter of the Defendant's commitment under § 4246 would be handled by the Western District of Missouri, which would assume jurisdiction over the Defendant. Counsel agreed that no further proceedings in this district are required and that the case could be closed. Mr. Moffatt noted that the case could be reopened here if the Defendant was subsequently found competent to proceed and returned to the district for a revocation hearing. Accordingly, the Court finds that no further proceedings are required. The Court **RECOMMENDS** to District Judge Jordan that the case be closed.

IT IS SO ORDERED.

ENTER:

s/ H. Bruce Guyton
United States Magistrate Judge